IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dinesh Kumar & ors. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 66/2003

and

Smt. Santosh. Versus State of Rajasthan.

S.B. Criminal Misc. Petition No. 1023/2002

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Date of Order: September 18, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Narpat Singh, for the petitioners.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By these two criminal miscellaneous petitions under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter) the petitioners have assailed the order attaching their property under the provisions of Section 105 (E) of the Code.

I have heard learned counsel for the petitioners and the Public Prosecutor for the State. Perused the order

impugned, as also the record of the trial Court.

On a report lodged by various complainants that the petitioners, who are Director, representatives and agents of Gurushikhar Savings & Finance Company, floated a scheme in the area in the year 1992 and collected huge amount from various villagers. Right from inception, the accused-petitioners and others had dishonest and fraudulent intention and thereby induced the complainants, who are hundreds in number, to deposit the money with them with the assurance and making them to believe that they will be repaid the amount with some benefits. However, subsequently, they closed the business and fled away and their whereabouts could not be known. On this complaint, a number of cases have been instituted against the petitioners and other persons.

The allegation against the petitioners is that from the illegal means the money received by them by inducing various persons, the petitioners purchased the property from the amount which had been fraudulently and dishonestly taken by the officials and members of the company. The allegation against the petitioners is that if the property which is the subject matter, is not attached, the same will be transferred by the property-holders. The trial Court, by the impugned order, attached the property by exercising the power under Section 105 (E) of the Code.

From a perusal of the order impugned, it appears that some of the accused persons are absconding and the proceedings under Section 82 and 83 of the Code have been initiated against them, viz. Satya Deo Sharma, Santosh, Om Prakash, Prem Prakash, Jagdish etc. On perusal of the record, prima facie there is evidence that the property has been acquired, as alleged by the complainants, from the money which the complainants have parted with on being induced fraudulently and dishonestly by the Director, office-bearers and the agents of the company.

On a careful perusal of the record, in my view, the trial Court was justified in attaching the property for protecting the property from being transferred. It cannot be said that the order impugned would result in serious miscarriage of justice or abuse of process of the Court.

In the result, both the criminal miscellaneous petitions are dismissed. The stay petitions also stand dismissed. The record of the trial Court be returned forthwith. The trial Court is directed to decide the matter utmost expeditiously, preferably within one year from the date of receipt of a copy of this order.

(H.R. PANWAR), J.

mcs